



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

Phone: (508) 369-9702

Fax: (508) 369-4521

872 WESTFORD ST.
CARLISLE, MA. 01741

MINUTES NOV. 27, 1995

Public Hearing: Special permit for common drive on Baldwin, cont.

Public Hearing: Special Permit for conservation cluster and common drive on Cross St., cont.

Chair Colman being absent, Vicechair Hengeveld opened the meeting at 7:25. Present were board members LaLiberte, Yanofsky, Tice, Epstein, and Duscha.

Malcolm Meadows preliminary review Board members completed reviewing the draft. The one issue remaining for discussion was whether the board wished there to be a sidewalk; the alternatives proposed by the developer are an 18' wide driveway with no walk, or a 14' wide driveway with a sidewalk. Duscha felt the separate walk is safer, in that it is desirable to have a barrier between cars and people. Other members were not convinced of the need. Epstein pointed out the review states that in the final plan, a separate sidewalk should be given thoughtful consideration, and therefore, the review simply puts the developer on notice that more consideration needs to be given this issue. LaLiberte asked that the cautionary words "Nothing herein should be construed as an approval under the Rules and Regulations Governing the Subdivision of Land in Carlisle be added. Epstein wished to add the sentence "The board reserves all rights in connection with applicable subdivision rules and regulations, the SROSC Rules And Regulations, and the Carlisle Zoning Bylaw." Duscha moved that the review letter be accepted as amended, and be submitted to Ron Peabody of Northwest Structures; LaLiberte seconded the motion. All members voted in favor.

Tall Pines lot release Bill Costello appeared before the board to ask for release of six lots (37A, 36A, 35A, 23, 24, and 8) from the Restrictive Covenant. Hengeveld recused herself from the ensuing discussion and vote. Costello testified that the through loop composed of Kimball Rd. to the intersection with Hutchins and all of Hutchins has been brought to binder coat except for the bridge on Kimball Rd. The bridge area is travellable, he said, and he expects to have the binder coat on this area within the next two days. Tice, who had visited the site recently, asked whether the utilities all go through one conduit. Costello replied that they do not, but that the several conduits are bound together in the one utility trench. Duscha asked whether there are any ConsCom easements on these lots; Costello replied that there are not. Lot 8, however, has a planning board easement for the protection of the Tall Pines. Yanofsky asked if the fact that ConsCom's Conservation

Restrictions are not yet recorded will cause the town problems if the related lots are released. Costello replied that he believed not, because he will reserve the right to record those easements in his purchase and sale documents, attaching the proposed C.R.'s to the P. and S. so that future lot owners will know what may occur. LaLiberte commented that it appears the lack of the C.R. won't affect the perpetual or enforceable nature of the documents. Epstein asked when Costello expected to close on the six lots being proposed for release. He replied in 10 days. Epstein asked that the deeds themselves include language such that the purchaser agrees to be bound by these restrictions in perpetuity, agrees to record the documents when completed, and recognizes that the property is subject to these documents. Epstein commented that he wished to note that the board does not want to set precedent by releasing lots from the Restrictive Covenant before all the tasks required in the covenant are completed. LaLiberte moved that the six lots be released provided, however, the purchase and sale agreement and conveyance of lot 8 shall be subject to the right of the planning board to obtain, if possible, the signatures of the board of selectmen and/or the signature of the Secretary of the Environment of the State of Massachusetts on the planning board documents titled Building Restriction, Conservation Restriction, and Trail Easement and Conservation Restriction, which documents will be attached to the purchase and sale agreement and deed for lot 8, and to record such in order to cause the existing restrictions to be perpetually enforceable, and further provided that board appointee LaLiberte approve the form of the proposed purchase and sale agreement and the deed to lot 8, and that Costello provide the board a copy of both approved documents. Tice seconded the motion. Tice, Epstein, LaLiberte and Duscha voted in favor; Yanofsky was temporarily absent and Hengeveld had recused herself.

The board also agreed informally that as a condition for the next round of lot releases, Costello must provide to the board and to the board's consulting engineer, LandTech, the certification of the developer's engineer, Joe March of Stamski and McNary, that the bridge has been constructed according to the approved bridge plans.

Public Hearing on special permit for common drive at Baldwin for Evans, cont.

Hengeveld reopened the hearing at 8 pm; present were board members Yanofsky, Tice, LaLiberte, Epstein, and Duscha. Also present were Ken, Jane, and Scott Evans, their attorney Valerie Swett, abutter Mary Deacon, Eunice Knight of the Carlisle Conservation Foundation, and Ken Harte. Hengeveld reported that she and board members Yanofsky, Epstein and Duscha had attended a site walk conducted by Ken Evans on Nov. 11; also attending the walk were abutters Deacon, Fines and Flannery. Swett asked if Flannery had added anything to the information which should be in the record. Hengeveld replied that he had not commented on the common drive, which was the subject of the walk.

Joe March of Stamski and McNary reviewed the changes made to the plan to meet the suggestions contained in Paul Graves' 11/9 review letter. He also explained that he had provided the P.A. and Graves with an estimate of the allowable speed limits for the end of Baldwin Rd., which has no posted speed limit, and, based on that estimate, calculations for the stopping distances at the intersection of the proposed common drive and Baldwin Rd. In response to a question, he replied that there is no wetland crossing involved, and that

small portions of the proposed drive lie in the buffer zone, primarily at the entrance and the cul-de-sac.

Tice asked why the common drive easement continues to parcel A. March replied that the intent is to allow flexibility in the location of the private drive for lot 3, and to have an established easement in place in case any use is ever proposed for parcel A. Parcel A, however, having no frontage, is not part of the application, he stated.

Yanofsky asked board members for clarification whether the special permit could be amended to include parcel A. March replied that it could conceivably be.

Tice asked why, if, as had been stated during the previous hearing session, parcel A may someday have a conservation restriction, a common drive easement is needed. March replied there might be a restriction, but nothing has been ironed out as yet. Ken Evans commented that an option to purchase parcel A exists. Jane Evans commented that she and her husband need a way to get to their back land if lots 3 and 4 are sold to others. Yanofsky asked how wide a typical common drive easement is, and whether she is right in assessing the width of this easement at 50'. March commented that c.d. easements vary. Yanofsky asked why the plan doesn't show access to parcel A through parcel C. March replied that parcel C is very wet, and that real access to parcel A is over the existing cart path, which the common drive follows fairly closely. The P.A. reported that she has not yet received a letter from town counsel Lane regarding the applicability of subdivision regs concerning dead end roads exceeding 1000' to ANR lots; she will urge Lane to provide an answer by the meeting of Dec. 4.

Epstein asked if the easement agreement includes the extension of the easement to parcel A, but not including parcel A. March replied that Epstein had stated it correctly. LaLiberte asked Swett why she had included a termination section, 9.a., in the agreement; he felt it negates the town's rights. She replied that she meant to preserve rights for the Evans while protecting the town through section 9c, which requires compliance with town bylaws and regs and any special permit. Epstein, considering the amendment section of the agreement, commented that he doesn't think mortgage lenders would make a loan in a case where an amendment section could allow a lot to be cut out of the agreement, or a termination section could allow termination of the agreement. He stated that the sense of the regs is that all owners will have equal rights, whereas the draft agreement gives the Evans complete control. LaLiberte agreed, citing section 9.d, which gives the Evans power of attorney on behalf of all lot owners to terminate the agreement. Jane Evans explained that these are family lots. Epstein replied that they are now, but an agreement is being established regarding them which will still be in effect 100 years from now.

Hengeveld opened the hearing to public comment at this time. Mary Deacon asked if her ROW would be affected by the plan. March replied that it would not. The plan, he said further, is one which must be registered with the Land Court, and it must continue to show the ROW. Whatever rights you have now, he told Deacon, will continue to exist. The ROW and the pond will show on the ANR when it is finalized he said. Yanofsky moved that the hearing be continued to 8:45 on Dec 4, 1995; Tice seconded the motion. All voted in favor.

The board reviewed the minutes of Nov. 13. Tice moved, and Duscha seconded, that the minutes be approved as amended. Tice, Duscha, Hengeveld, Epstein and LaLiberte voted in favor; Yanofsky abstained.

ANR: 196 and 110 Maple St. for Arthur and Calixte Adrian Tice moved, and Duscha seconded, that the board endorse the plan dated 11/16/95 because it shows adequate frontage for the lots being created and visual inspection shows real access to the lots exists.

ANR: 698 Concord Rd. for Judy Pettit Duscha moved, and Tice seconded, that the board endorse the plan dated 11/21/95 because it shows adequate frontage for the lots being created and visual inspection shows real access to the lots exists.

Public Hearing on conservation cluster and common drive at Cross St. for Fielding, cont. Hengeveld reopened the public hearing at 9:15. Board members Yanofsky, Tice, Epstein, LaLiberte and Duscha were present; also present were John and Chris Fielding, their agent Joe March, Ken Ernstoff, Dick and Judy Wells, and Copie Thierry. Seeing that one member (Colman) was absent, Fielding asked to continue the hearing without testimony to a later date. Abutter Judy Wells objected, stating that several people had come out for the hearing, and might not be able to return at another date. LaLiberte moved, and Hengeveld seconded, that the hearing be continued without testimony being taken to Dec. 4 at 9:30. Epstein, Tice, LaLiberte, Yanofsky and Duscha voted in favor; Hengeveld voted against the motion. The hearing was therefore continued.

The board discussed the transition period between Bayne and her successor George Mansfield, and asked Bayne to estimate after her first meeting with him the number of hours she will need to work with him.

The meeting was adjourned at 9:35.

Submitted by Sandy Bayne, planner assistant